

BEFORE THE DEPARTMENT OF JUSTICE  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 23.2.301 pertaining to the )  
affidavit of indigence and statement )  
of inability to pay court costs and fees )

TO: All Concerned Persons

1. On October 13, 2017, the Department of Justice published MAR Notice No. 23-2-248 pertaining to the proposed amendment of the above-stated rule at page 1724 of the 2017 Montana Administrative Register, Issue Number 19.

2. Based on comments received regarding the proposed rule amendment, the department has made several changes to the form. Following is the form as revised from the proposal notice and as amended:

23.2.301 STATEMENT OF INABILITY TO PAY COURT COSTS AND FEES

\_\_\_\_\_  
Name

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State Zip Code

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
E-mail Address (*optional*)  
☐ Petitioner/Plaintiff ☐ Respondent/Defendant

☐ MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY  
☐ IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA  
☐ IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

\_\_\_\_\_  
Petitioner / Plaintiff,  
  
and  
\_\_\_\_\_  
Respondent / Defendant.

**Case No:** \_\_\_\_\_  
(*leave blank, the clerk will write in*)

Statement of Inability to Pay Court  
Costs and Fees

I have a good cause of action or defense but am unable to pay filing or other court fees. I request the court waive the costs and fees. I provide the following information.

My full legal name is: \_\_\_\_\_. I was born in this month \_\_\_\_\_ and this year \_\_\_\_\_.

☐ I am represented by an entity that provides free legal services to low-income persons.

**Or**

☐ I am represented by a volunteer/pro bono attorney, and am financially eligible for free legal services. (*Attach a certificate of eligibility from legal aid organization to this form.*)

**Or**

☐ I receive one or more of these benefits: (*Check the box for each benefit you receive.*)

☐ SNAP    ☐ TANF    ☐ SSI    ☐ Medicaid    ☐ WIC    ☐ LIEAP

**If you checked any one of the three boxes above, skip to the end of this form, and sign the declaration on page 3. You don't need to fill out the remainder of the form.**

If you did not check a box above, you may still qualify for a fee waiver. Please continue to fill out pages 2 and 3 of this form so the court has the information it needs to decide if you qualify for the fee waiver.

**I. INCOME** (*Complete this Section to the best of your ability.*)

What do you do for work? \_\_\_\_\_ Who is your employer? \_\_\_\_\_

What is your household's annual income, before taxes? \_\_\_\_\_ How many people are in your household? \_\_\_\_\_ (*The tables below will help you answer these questions, if you are not sure what to put in the blanks.*)

If you are unemployed, when were you last employed (Month, Year)? \_\_\_\_\_ Your job? \_\_\_\_\_

**Are you married?** ☐ Yes ☐ No ☐ Separated ☐ Getting Divorced **NOTE:** If you are not married, if you and your spouse are separated, or if one of you is filing for dissolution of marriage, you do not need to provide your spouse's income below.

Fill in the chart below with the income received by you, and by your spouse, if applicable. Put a "0" in each blank if you or your spouse don't receive the income listed.

Income Sources	Amount YOU receive per month before taxes	Amount YOUR SPOUSE receives per month before taxes
Employment	\$	\$
Retirement/Pension	\$	\$
Workers' Compensation	\$	\$
Social Security	\$	\$
Unemployment	\$	\$
Government Benefits	\$	\$
Child Support Received	\$	\$
A person or agency pays my rent or other monthly expenses and the amount is: _____	\$	\$
Other Income—e.g., rental income, stocks, investments, etc.—describe: _____	\$	\$
<b>Total here:</b>	\$	\$

**What is your household size?** How many persons, if any, depend on you financially? If none, then write "N/A" below. Attach another page if needed and check here to tell the court you attached another page: ☐

Dependents (Initials Only)	Age	Relationship to You
1.		
2.		
3.		
4.		
5.		

**II. ASSETS** *(Complete this Section to the best of your ability.)*

**What property do you and your spouse own?** Include your spouse's property if you are married and not separated and not filing for dissolution. Fill in the chart below, for each item that you could sell for \$600 or more. If you don't own an item listed, write "N/A" in the "Value" column for that item. *"Value" means the total amount the item or items (if you have more than one in a certain category) would sell for, minus the amount you still owe on the item (if anything).*

Asset	Value
Cash (This includes the money in your savings and checking accounts)	\$
Vehicle 1: provide year, make and model _____	\$
Vehicle 2: provide year, make and model _____	\$
Home where you live now	\$
Real estate or other homes/mobile homes (Not including the home you are living in now)	\$
Recreational vehicle(s), such as snowmobile, ATV, camper/RV, boat, motorcycle, etc.	\$
Guns or other collections	\$
Other Item(s) worth more than \$600—describe: _____	\$

**III. DEBTS AND EXTRAORDINARY EXPENSES** *(Complete this Section to the best of your ability.)*

**What bills do you and your spouse pay each month?** Fill in the chart below.

Monthly Expenses	Value
Housing Expense: Mortgage or Rent	\$
General Household Expenses: Utilities, Phone/Internet/Cable, etc.	\$

Insurance Expenses, Healthcare Costs and/or Medical Debt(s)	\$
Childcare Expenses	\$
Other Extraordinary Expenses: e.g., Collection actions, Student Loans—describe: _____	\$

**IV. ADDITIONAL INFORMATION** (*This Section is optional.*)

If you have additional information, including extraordinary expenses, that you want the court to consider about your inability to pay court costs, write that information under your signature below or attach an extra page. Check here if you attached another page: ☐

**V. DECLARATION** (*This Section is Required.*)

**I declare under penalty of perjury and under the laws of the State of Montana that the information in this document is true and correct. I understand that it is a crime to give false information in this document.**

Date: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_

YOUR Signature: \_\_\_\_\_

*Court Use Only*

- ☐ MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT, \_\_\_\_\_ COUNTY
- ☐ IN THE JUSTICE COURT OF \_\_\_\_\_ COUNTY, STATE OF MONTANA
- ☐ IN THE MUNICIPAL OR CITY COURT OF \_\_\_\_\_, MONTANA

_____, Petitioner / Plaintiff,  and _____, Respondent / Defendant.	<b>Case No:</b> _____ ( <i>leave blank, the clerk will write in</i> )  Order Regarding Statement of Inability to Pay Court Costs
---	--

***Warning! Read carefully the section checked below.  
It is a court order.***

☐ Waiver of court costs is **Granted**. Declarant shall proceed without payment of court fees or costs.

☐ Temporary Waiver of court costs is **Granted**. Declarant may file without payment of court fees or costs, but the Court may determine at a later time that the declarant has the ability to pay all fees or costs and will require declarant to do so.

☐ Temporary Waiver of fees is **Granted**. Declarant may file without payment of court fees or costs, but must appear before the Court at \_\_\_\_\_ a.m/p.m. on the \_\_\_\_\_ day of \_\_\_\_\_ and show cause why the declarant lacks the ability to pay all fees or costs.

***Warning! If this third box is checked, you must come to court on the date ordered above. If you don't come, the judge will deny your request to waive court costs, and you will have to pay the court costs.***

☐ Waiver of Fees and costs is **Denied**. Waiver is denied based on the following:

---

---

---

Ordered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Presiding Judge

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: Two district court judges commented that the waiver form should be simplified and focus on the applicant's household income in relation to the size of the applicant's household. A subcommittee of the Access to Justice Commission provided suggested changes to shorten and simplify the waiver form in response to the district judges' comments. Two other district court judges suggested keeping the expenses section.

RESPONSE 1: The waiver form was amended from the proposed version to address these comments. The automatic qualification options are consolidated into the first section. The income section is consolidated and shortened, and begins by asking for annual household income "before taxes" and then for the number of

people in the household. The form still asks for a list of assets, as contemplated by 25-10-404(4), MCA, but the expenses section is shortened.

COMMENT 2: A district court judge commented that the form should not require birth dates or social security numbers for privacy reasons.

RESPONSE 2: The waiver form does not require social security numbers and only requires the applicant's year and month of birth, not the full birth date.

MATTHEW COCHENOUR

Matthew Cochenour  
Rule Reviewer

/s/ TIMOTHY C. FOX

Timothy C. Fox  
Attorney General  
Department of Justice

Certified to the Secretary of State January 16, 2018.